REMARKS

Claim 2 has been canceled. Thus, claims 1 and 3-15 are pending in the present application. In the Office Action, claims 1-2 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Proctor, et al (U.S. Patent No. 6,205,125). Claims 3-15 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Proctor in view of Ellis, et al (U.S. Patent No. 5,497,371). The Examiner's rejection of claim 2 is moot because claim 2 has been canceled. The Examiner's remaining rejections are respectfully traversed.

Proctor describes a method for determining a transmission time for information packets in a communication system. The Examiner alleges that Proctor teaches that a time delay is determined based on a determined periodicity, as set forth in independent claim 1 of the present invention. Applicants respectfully disagree. As defined in the specification, the periodicity is the basic timing relationship between consecutive packets or groups of packets produced by sampling DSI signals (such as voice signals) at a predetermined sampling rate. See Patent Application, page 10, ll. 9-21.

Proctor appears to be completely silent with regard to any periodicity associated with information packets that may be transmitted and/or received by the communication system. In contrast, Proctor teaches a CDMA system that uses a speech coding algorithm that generates variable speech packet sizes that are directly related to the amount of speech activity at a given time. See Proctor, col. 1, ll. 41-44. Proctor does not describe generating packets during speaker silence, so there does not appear to be any periodicity (as defined in the present application) in the packets generated using the CDMA system described by Proctor. The "timing relationship" described in Proctor and mentioned by the Examiner refers to the time delay (or delay offset) that is to be imposed on the transmitted packets. Proctor also teaches that packets are placed into a

section of the circular data buffer 380 based upon the packets' delay offset. Packets in the circular data buffer 380 are later transmitted serially according to their position in the circular data buffer 380 so that the packets are transmitted with approximately the associated delay offset. See Proctor, Figure 4 and related discussion. Thus, Applicants respectfully submit that the timing relationship described by Proctor is not related to any periodicity associated with the packets.

For at least the aforementioned reasons, Applicants respectfully submit that claim 1 is not anticipated by Proctor and request that the Examiner's rejection of this claim be withdrawn.

Applicants also submit that the pending claims are not obvious in view of Proctor and Ellis, either alone or in combination. To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. As discussed above, Proctor fails to teach or suggest a delay based on a determined periodicity, as set forth in independent claim 1. The Examiner relies on Ellis to teach a packet fragmentation protocol. However, Ellis, like Proctor, fails to teach or suggest a delay based on a determined periodicity.

Furthermore, neither Proctor nor Ellis provides any suggestion or motivation to modify the reference or to combine reference teachings to arrive at Applicants' claimed invention. In contrast, as discussed above, Proctor teaches a CDMA system that generates variable speech packet sizes that are directly related to the amount of speech activity at a given time and does not appear to generate packets during speaker silence. Thus, the generated packets do not have a periodicity. See Proctor, col. 1, ll. 41-44. Assuming for the sake of argument that the generated packets did have a periodicity (and Applicants reaffirm that the packets described in Proctor do not), ordering the packets in the circular data buffer 380 according to the associated delay offset,
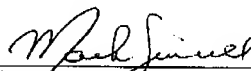
as taught by Proctor, would destroy any pre-existing periodicity in the packets. Accordingly, Applicants submit that the cited references fail to provide any suggestion or motivation for a delay based on a determined periodicity.

For at least the aforementioned reasons, Applicants respectfully submit that the present invention is not obvious over Proctor in view of Ellis and request that the Examiner's rejections of claims 3-15 be withdrawn.

For the aforementioned reasons, it is respectfully submitted that all claims pending in the present application are in condition for allowance. The Examiner is invited to contact the undersigned at (713) 934-4052 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

Date: _____9/13/04_____

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